

1 IN THE KENTUCKY PUBLIC SERVICE COMMISSION

2
3
4 IN RE: INVESTIGATION:

5 Case No. 2003-00433
6 AN ADJUSTMENT OF THE GAS AND ELECTRIC RATES
7 TERMS, AND CONDITIONS OF LOUISVILLE GAS AND
8 ELECTRIC COMPANY

9 and

10 Case No. 2003-00434
11 AN ADJUSTMENT OF THE ELECTRIC RATES, TERMS, AND
12 CONDITIONS OF KENTUCKY UTILITIES COMPANY

13 * * *

14
15 SWORN STATEMENT

16 OF

17 WILLIAM H. JONES, JR.

18 JULY 27, 2005
19
20

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8/8/05 *hrl*

A P P E A R A N C E S

SPECIAL GENERAL COUNSEL TO THE PUBLIC SERVICE
COMMISSION:

JONATHAN D. GOLDBERG
Goldberg & Simpson
3000 National City Tower
101 South Fifth Street
Louisville, Kentucky 40202

1 The sworn statement of WILLIAM H.
2 JONES, JR., taken telephonically in the offices of
3 the Public Service Commission, 211 Sower Boulevard,
4 Frankfort, Kentucky, on Wednesday, the 27th day of
5 July, 2005, at approximately 11:30 a.m.

6
7 EXAMINATION

8
9 BY MR. GOLDBERG:

10 Q. Could you state your full name,
11 please.

12 A. William H. Jones, Jr.

13 Q. Okay. And your address, your business
14 address?

15 A. 1544 Winchester Avenue, Ashland,
16 Kentucky, 41101.

17 Q. All right, sir. And what is your
18 occupation?

19 A. I'm an attorney.

20 Q. Okay. And are you employed by a firm
21 or are you a sole practitioner?

22 A. I am with the firm of VanAntwerp,
23 Monge, Jones and Edwards.

24 Q. Okay. And I trust the address you
25 gave us is the address of the firm.

1 A. Right.

2 Q. And how long have you been employed
3 there, sir?

4 A. Since 1972.

5 Q. All right, sir. And do you have a
6 particular area of expertise that you practice in?

7 A. I practice environmental law and
8 commercial law, primarily representing steel
9 manufacturers.

10 Q. All right, sir. Are you familiar with
11 a company by the name of North American Stainless?

12 A. I am.

13 Q. And do you represent North American
14 Stainless?

15 A. I do.

16 Q. And how long have you represented
17 North American Stainless?

18 A. Since the early '90s.

19 Q. All right, sir. And what type of work
20 do you perform, legal work, for North American
21 Stainless?

22 A. Environmental, commercial, corporate.
23 And then our firm also -- and I participate to a
24 lesser degree with litigation matters.

25 Q. All right, sir. Are you familiar with

1 an operation they have in Ghent, Kentucky?

2 A. I am.

3 Q. Okay. And do I take it you do legal
4 work for that particular operation?

5 A. Yes.

6 Q. Okay. With regard to that operation,
7 whom do you directly work with?

8 A. Well, I report to Mary Jean Riley, the
9 vice president of administration. But I'm sure you
10 understand I've worked with many different people at
11 North American Stainless, including the general
12 counsel, Nat Adams, and others.

13 Q. Okay. The person I was looking for is
14 Nat Adams. I take it that you do work with him from
15 time to time?

16 A. I do.

17 Q. Okay. Did you become familiar with an
18 issue as far as North American Stainless was
19 concerned dealing with a tariff involving KU sometime
20 in the year 2003?

21 A. By tariff, are you referring to the
22 tariff that was -- that was filed by KU years ago, or
23 are you referring to their nonconforming load service
24 tariff that they've subsequently filed?

25 Q. I'm referring to the tariff which --

1 the older of the two, which it's my understanding
2 North American Stainless was operating under and
3 unhappy with. And again, my time period here is
4 sometime second quarter of 2003. So --

5 A. Let me --

6 Q. Go ahead, sir.

7 A. Let me explain. North American
8 Stainless did operate its stainless steel production
9 and received service under the LCI-TOD tariff and
10 continues to receive service under that tariff for
11 much of its operations. However, when North American
12 Stainless invested in a melt shop, and in particular
13 sought to install an electric arc furnace, then by
14 virtue of the LCI-TOD tariff provision, because the
15 load would be more than 50 megawatts, it was required
16 to negotiate a special contract with KU. And that
17 special contract was entered into I believe in
18 July 2000. It was that contract I suppose you're
19 referencing that --

20 Q. Yes, sir.

21 A. -- North American Stainless became
22 concerned that the rates were not fair, just and
23 reasonable. It did not question the LCI-TOD rates.

24 Q. Fair enough. Were you employed to
25 deal with those issues for North American Stainless?

1 A. Yes.

2 Q. Okay. And what course of action did
3 you take as it relates to the PSC?

4 A. As it relates to the PSC?

5 Q. Yes, sir.

6 A. We -- as I recall, NAS was having
7 discussions with KU about the contract. There were
8 two issues, whether the contract would be
9 renegotiated or whether the contract would be
10 renewed. I believe it was scheduled to expire in
11 March of 2004. We did have discussions with the PSC
12 concerning the procedures for review of the contract
13 and/or the establishment of rates if the contract
14 were not renewed.

15 Q. Did you subsequently file a complaint
16 with the PSC upon behalf of North American Stainless?

17 A. Yes. I, along with others, are listed
18 as counsel.

19 Q. All right, sir. And --

20 A. Primarily relied upon -- I am not a --
21 Public Service Commission electrical rates are not
22 one of my areas of expertise. We used, and I'm sure
23 you have found out by now, Jay Brew and Smitty
24 Taylor.

25 Q. Yes, sir. I have taken a statement

1 from Mr. Taylor and due to take one from Mr. Brew.

2 Do you recall generally when the
3 complaint was filed by North American Stainless?

4 A. September of '03, I believe.

5 Q. All right, sir. And subsequent to the
6 filing of the complaint, did KU file a tariff, the
7 tariff -- second one you mentioned in your prior
8 testimony?

9 A. Yes, about a month later.

10 Q. All right, sir. Both of -- both the
11 complaint filed by North American Stainless and the
12 tariff involved KU, correct?

13 A. Correct.

14 Q. All right. There was no involvement
15 by LG&E; is that correct?

16 A. No involvement from the standpoint of
17 the pleadings. As I'm sure you recognize, KU's
18 letterhead also has LG&E.

19 Q. Right. I was, obviously, aware of
20 that. Subsequent to the filing of the tariff, I
21 trust you became aware of LG&E and KU petitioning for
22 a rate increase.

23 A. Yes, I did.

24 Q. Okay. And it's my understanding that
25 subsequent in time to the filing of the petition the

1 matters between North American Stainless and KU were
2 consolidated with the two rate cases. Am I correct?

3 A. Yes.

4 Q. Okay.

5 A. I think technically perhaps they were
6 consolidated with the KU docket number.

7 Q. Thank you. Okay. And for ready
8 reference, that would have been 2003-00434.

9 A. I believe that's correct.

10 Q. All right, sir. Now, after the
11 consolidation, what role -- or what was your
12 participation in the consolidated case, 00434?

13 A. Well, of course, I've conferred
14 with -- with the clients and with co-counsel, Mr. Nat
15 Adams, Mr. Jay Brew and Smitty Taylor, and also my --
16 my partner, Kim McCann, who was assisting me.

17 Q. Do you have a recollection of having
18 had contact with the staff or employees of the Public
19 Service Commission? And the time frame is from the
20 time the complaint was filed until April 28, 2004,
21 the date of the first informal conference here in
22 Frankfort, Kentucky.

23 A. No, I have -- I have no recollection.

24 Q. Okay. And do I take it -- when I say
25 "contact," that's either telephone, e-mail and/or

1 letter.

2 A. That's correct. There were some
3 pleadings -- I believe -- I believe NAS objected to
4 the consolidation. So if you consider formal
5 pleadings contact, that would be --

6 Q. Fair enough. Other than that -- other
7 than formal pleadings, no contact at least as far as
8 Bill Jones is concerned.

9 A. Correct.

10 Q. All right, sir. Did you come to
11 Frankfort to attend the informal conference on
12 April 28, 2004?

13 A. April 28, 2004. I am not sure.

14 Q. All right, sir.

15 A. I think I was at a conference, a
16 prehearing conference on -- I thought it was
17 April 29th.

18 Q. April 28th, 2004, the informal
19 conference. And then May 3rd, 2004 was the
20 prehearing conference, just to fill in your knowledge
21 of dates and times, because those are just benchmarks
22 here. May 3rd, 2004, prehearing conference.
23 May 4th, 5th and 6th were originally scheduled as
24 hearing dates, and some testimony was taken on those
25 dates. And there were negotiations that ensued also

1 on May 4th, 5th and 6th. Does that comport with your
2 recollection?

3 A. I can't remember. I know that there
4 were -- that I was at the PSC with -- with many
5 others prior to the beginning of the formal hearing,
6 but I can't recall the dates.

7 Q. Okay. Do you recall being there on
8 multiple days, Mr. Jones?

9 A. Yes, although I was not there as -- on
10 every occasion that Mr. Taylor and Mr. Brew were
11 there, that I recall. But I'm sorry, I just cannot
12 recall the --

13 Q. All right. But you believe you were
14 there on more than one day.

15 A. Yes.

16 Q. And do I take it you participated in
17 the negotiation both with the rate case group as a
18 whole and I take it also with individual issues
19 dealing with North American Stainless?

20 A. Yes.

21 Q. Okay. Were you there on the first day
22 that negotiations began? Do you have a recollection
23 of that?

24 A. I do not know because I don't know the
25 date.

1 Q. All right. Fair enough. You do --
2 the best you can do is that you can place yourself
3 there at the negotiation, but you don't know whether
4 it's the first day or what day?

5 A. That's correct.

6 Q. All right. And do you know that after
7 you arrived you were there to conclusion or do you
8 believe that you were only there for part of the
9 negotiation?

10 A. Well, when you say "negotiation," are
11 you -- my recollection is that we -- there was much
12 negotiation going on with many parties from the
13 standpoint of KU and LG&E, and we had to wait our --
14 our turn, if you will, to have settlement discussions
15 with -- with KU and LG&E. And I don't remember how
16 many hours or days I was there. I believe I was
17 there on the evening where the parties -- and by "the
18 parties" I mean KU and NAS -- tentatively agreed to
19 changes in the nonconforming load tariff, which I
20 guess we could classify as a settlement, of course,
21 subject to the commission's approval.

22 Q. Okay. Do you believe you were there
23 for the settlement of all the other issues in the KU
24 and LG&E rate cases?

25 A. I -- I was there for -- I just can't

1 recall whether -- how many hours or days I was there
2 and how long the discussions --

3 Q. Okay. Fair enough. Let me ask you
4 this. Did you have discussions or did you
5 participate in discussions with the PSC staff either
6 on the KU/LG&E rate case as a whole or on issues
7 dealing with the complaint and tariff of North
8 American Stainless?

9 A. I can remember that the parties were
10 basically given time to negotiate a settlement by the
11 commission. The commission postponed the hearing. I
12 can remember that NAS was asked to use a small
13 conference room adjacent to the lobby. The utility
14 had rooms in the back somewhere. I never knew
15 exactly where. I know the attorney general was
16 there. Representatives of others parties were there,
17 KIUC, et cetera.

18 And I can remember the staff -- you
19 would see a member of the staff in the hallway. I
20 don't remember any specific discussions about the
21 merits, if you will, of any -- anyone's position. I
22 can remember questions like, "How long do you think
23 you'll need us to stay here tonight?" I can even
24 remember one evening -- and I don't know whether it
25 was early in the evening or late in the evening --

1 the staff came by and said that they were leaving at
2 a specified time, maybe 10:00 p.m. or something. But
3 it would just be those general type discussions with
4 the staff.

5 Q. All right. So I take it nothing on
6 the merits of issues relating to North American
7 Stainless.

8 A. Nothing that I can recall
9 participating in.

10 Q. And at any time in any of these
11 proceedings -- and I'm talking about from the time of
12 the filing of the complaint until resolution, did
13 you -- did you have any communication with the
14 commission members themselves?

15 A. None.

16 Q. Okay. And did you ever -- same time
17 period. Did you have any communication with the
18 executive director, a Mr. Tom Dorman?

19 A. Other than he would -- like other
20 members of the staff, he would be in the hallway and
21 just say hello.

22 Q. All right, sir. Did you subsequently
23 become aware of allegations by the attorney general
24 of collusion and ex parte communication during this
25 proceeding?

1 A. I came -- I became aware that the
2 attorney general had raised issues of ex parte
3 communication. I'm troubled by the word "collusion."
4 I'm not sure what it means, but I certainly know that
5 he raised issues about ex parte communication, yes.

6 Q. All right, sir. And did you yourself,
7 with regard to the staff or commission members,
8 observe anything which you believed to be an ex parte
9 communication?

10 A. No.

11 Q. All right. And my definition of
12 ex parte communication is any discussion on the
13 merits of the case or cases, as the case may be here,
14 where persons -- all persons who had an interest were
15 not present. So discussions on the merits between
16 staff and/or the commissioners and anybody where all
17 other persons were not present.

18 A. No. The -- the merits, if you will,
19 or the issues as to rates were discussed between NAS
20 and KU. And the staff did not participate in those
21 discussions.

22 MR. GOLDBERG: All right. Fair
23 enough. Well, sir, that is all I have. I appreciate
24 your time.

25

(STATEMENT CONCLUDED AT 11:55 A.M.)

* * *

1 STATE OF KENTUCKY) (
) (SS:
2 COUNTY OF JEFFERSON) (
3

4 I, ELLEN L. COULTER, Notary Public,
5 State of Kentucky at Large, hereby certify that the
6 foregoing sworn statement was taken at the time and
7 place stated in the caption; that the appearances
8 were as set forth in the caption; that prior to
9 giving testimony the witness was first duly sworn by
me; that said testimony was taken down by me in
stenographic notes and thereafter reduced under my
supervision to the foregoing typewritten pages and
that said typewritten transcript is a true, accurate
and complete record of my stenographic notes so
taken.

10 I further certify that I am not
11 related by blood or marriage to any of the parties
12 hereto and that I have no interest in the outcome of
captioned case.

13 My commission as Notary Public expires
November 5, 2007.

14 Given under my hand this the 5th
15 day of August, 2005, at Louisville,
Kentucky.

16
17 

18 ELLEN L. COULTER
19 NOTARY PUBLIC
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21
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23
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1 I, the undersigned, WILLIAM JONES, do
2 hereby certify that I have read the foregoing sworn
3 statement, and that, to the best of my knowledge,
4 said sworn statement is true and accurate, with the
5 exception of the corrections, if any, listed on the
6 errata sheet.

7
8 
9 WILLIAM JONES

10
11 Subscribed and sworn to before me this 6th
12 day of October, 2005.

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16 NOTARY PUBLIC

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19 My commission expires 3/15/2007
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COULTER REPORTING, LLC
101 EAST KENTUCKY STREET, SUITE 200
LOUISVILLE, KY 40203

ERRATA SHEET

NAME WILLIAM JONES DATE OF DEPOSITION 7/27/05

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| F far [2] 5/18 10/7 FAX [1] 1/24 Fifth [1] 2/5 file [2] 7/15 8/6 filed [5] 5/22 5/24 8/3 8/11 9/20 filing [4] 8/6 8/20 8/25 14/12 fill [1] 10/20 firm [4] 3/20 3/22 3/25 4/23 first [4] 9/21 11/21 12/4 17/6 for -- [1] 12/25 foregoing [2] 17/5 17/8 formal [3] 10/4 10/7 11/5 forth [1] 17/6 found [1] 7/23 frame [1] 9/19 Frankfort [3] 3/4 9/22 10/11 full [1] 3/10 furnace [1] 6/13 further [1] 17/10 | INVESTIGATION [1] 1/4 involved [1] 8/12 involvement [2] 8/14 8/16 involving [1] 5/19 is [12] 3/17 3/25 5/13 6/3 8/15 9/19 10/8 12/2 12/11 15/12 15/23 17/8 issue [1] 5/18 issues [9] 6/25 7/8 11/18 12/23 13/6 14/6 15/2 15/5 15/19 it [16] 5/3 5/14 6/15 6/18 6/23 7/3 7/4 7/10 9/24 10/16 11/16 11/18 13/24 14/3 14/5 15/4 it -- [1] 9/24 it's [3] 6/1 8/24 12/4 its [2] 6/8 6/11 | matters [2] 4/24 9/1 may [5] 10/19 10/22 10/23 11/1 15/13 maybe [1] 14/2 McCann [1] 9/16 me [6] 6/5 6/7 9/16 13/3 17/7 17/7 me -- [1] 6/5 mean [1] 12/18 means [1] 15/4 megawatts [1] 6/15 melt [1] 6/12 member [1] 13/19 members [3] 14/14 14/20 15/7 mentioned [1] 8/7 merits [5] 13/21 14/6 15/13 15/15 15/18 Monge [1] 3/23 month [1] 8/9 more [2] 6/15 11/14 MR [1] 3/9 Mr. [8] 8/1 8/1 9/14 9/15 11/8 11/10 11/10 14/18 Mr. Brew [2] 8/1 11/10 Mr. Jay [1] 9/15 Mr. Jones [1] 11/8 Mr. Nat [1] 9/14 Mr. Taylor [1] 8/1 Mr. Tom [1] 14/18 much [2] 6/11 12/11 multiple [1] 11/8 my [12] 6/1 6/3 7/22 8/24 9/15 9/16 12/11 15/11 17/7 17/9 17/12 17/13 my -- [1] 9/15 |
| G GAS [2] 1/5 1/6 gave [1] 3/25 general [6] 2/2 5/11 13/15 14/3 14/23 15/2 generally [1] 8/2 Ghent [1] 5/1 given [2] 13/10 17/13 giving [1] 17/6 Go [1] 6/6 going [1] 12/12 GOLDBERG [3] 2/4 2/4 3/9 group [1] 11/17 guess [1] 12/20 | J Jay [2] 7/23 9/15 Jean [1] 5/8 JEFFERSON [1] 17/2 JONATHAN [1] 2/4 JONES [6] 1/17 3/2 3/12 3/23 10/8 11/8 JR [3] 1/17 3/2 3/12 JULY [3] 1/18 3/5 6/18 just [7] 6/22 10/20 10/21 11/11 12/25 14/3 14/21 | N name [2] 3/10 4/11 NAS [5] 7/6 10/3 12/18 13/12 15/19 NAS -- [1] 12/18 Nat [3] 5/12 5/14 9/14 National [1] 2/5 need [1] 13/23 negotiate [2] 6/16 13/10 negotiation [5] 11/17 12/3 12/9 12/10 12/12 negotiations [2] 10/25 11/22 never [1] 13/14 no [10] 1/5 1/10 8/14 8/16 9/23 9/23 10/7 15/10 15/18 17/11 nonconforming [2] 5/23 12/19 None [1] 14/15 North [18] not [13] 6/22 6/23 7/14 7/20 7/21 10/13 11/9 11/24 15/4 15/15 15/17 15/20 17/10 Notary [3] 17/4 17/12 17/18 notes [2] 17/7 17/9 nothing [2] 14/5 14/8 November [1] 17/12 now [2] 7/23 9/10 number [1] 9/6 |
| H had [5] 9/18 12/13 13/14 15/2 15/14 hallway [2] 13/19 14/20 hand [1] 17/13 has [1] 8/18 have [18] have -- [1] 9/23 having [2] 7/6 9/17 he [3] 14/19 14/20 15/5 hearing [3] 10/24 11/5 13/11 hello [1] 14/21 here [5] 6/3 9/21 10/22 13/23 15/13 hereby [1] 17/4 hereto [1] 17/11 him [1] 5/14 hours [2] 12/16 13/1 how [6] 4/2 4/16 12/15 13/1 13/2 13/22 However [1] 6/11 | K KENTUCKY [12] 1/1 1/11 1/22 1/23 2/6 3/4 3/16 5/1 9/22 17/1 17/4 17/15 Kim [1] 9/16 KIUC [1] 13/17 knew [1] 13/14 know [8] 11/3 11/24 11/24 12/3 12/6 13/15 13/24 15/4 knowledge [1] 10/20 KU [15] 5/19 5/22 6/16 7/7 8/6 8/12 8/21 9/1 9/6 12/13 12/15 12/18 12/23 13/6 15/20 KU's [1] 8/17 | O objected [1] 10/3 observe [1] 15/8 obviously [1] 8/19 occasion [1] 11/10 occupation [1] 3/18 of -- [1] 8/10 offices [1] 3/2 Okay [17] 3/13 3/20 3/24 5/3 5/6 5/13 5/17 7/2 8/24 9/4 9/7 9/24 11/7 11/21 12/22 13/3 14/16 older [1] 6/1 on [16] 3/4 10/11 10/16 10/24 11/1 11/7 11/9 11/14 11/21 12/12 12/17 13/6 13/6 |
| I I -- [1] 12/25 I report [1] 5/8 I'm [9] 3/19 5/9 5/25 7/22 8/17 11/11 14/11 15/3 15/4 I've [2] 5/10 9/13 if [5] 7/13 10/4 12/14 13/21 15/18 in [31] including [1] 5/11 increase [1] 8/22 individual [1] 11/18 informal [3] 9/21 10/11 10/18 install [1] 6/13 interest [2] 15/14 17/11 into [1] 6/17 invested [1] 6/12 | L Large [1] 17/4 late [1] 13/25 later [1] 8/9 law [2] 4/7 4/8 LCI-TOD [3] 6/9 6/14 6/23 least [1] 10/7 leaving [1] 14/1 legal [2] 4/20 5/3 lesser [1] 4/24 Let [3] 6/5 6/7 13/3 letter [1] 10/1 letterhead [1] 8/18 LG [7] 8/15 8/18 8/21 12/13 12/15 12/24 13/6 like [2] 13/22 14/19 listed [1] 7/17 litigation [1] 4/24 LLC [1] 1/21 load [3] 5/23 6/15 12/19 lobby [1] 13/13 long [4] 4/2 4/16 13/2 13/22 looking [1] 5/13 LOUISVILLE [4] 1/6 1/23 2/6 17/14 | M manufacturers [1] 4/9 many [5] 5/10 11/4 12/12 12/16 13/1 March [1] 7/11 marriage [1] 17/10 Mary [1] 5/8 |

| | | |
|---|---|---|
| O on... [3] 14/5 15/12 15/15 on -- [1] 10/16 one [5] 7/22 8/1 8/7 11/14 13/24 only [1] 12/8 operate [1] 6/8 operating [1] 6/2 operation [3] 5/1 5/4 5/6 operations [1] 6/11 or [20] originally [1] 10/23 other [6] 10/6 10/6 12/23 14/19 14/19 15/17 others [4] 5/12 7/17 11/5 13/16 our [3] 4/23 12/13 12/14 our -- [1] 12/13 out [1] 7/23 outcome [1] 17/11 | R raised [2] 15/2 15/5 rate [5] 8/22 9/2 11/17 12/24 13/6 rates [7] 1/5 1/10 6/22 6/23 7/13 7/21 15/19 RE [1] 1/4 ready [1] 9/7 reasonable [1] 6/23 recall [8] 7/6 8/2 11/6 11/7 11/11 11/12 13/1 14/8 receive [1] 6/10 received [1] 6/9 recognize [1] 8/17 recollection [5] 9/17 9/23 11/2 11/22 12/11 record [1] 17/9 reduced [1] 17/7 reference [1] 9/8 referencing [1] 6/19 referring [3] 5/21 5/23 5/25 regard [2] 5/6 15/7 related [1] 17/10 relates [2] 7/3 7/4 relating [1] 14/6 relied [1] 7/20 remember [8] 11/3 12/15 13/9 13/12 13/18 13/20 13/22 13/24 renegotiated [1] 7/9 renewed [2] 7/10 7/14 report [1] 5/8 Reporting [1] 1/21 represent [1] 4/13 Representatives [1] 13/16 represented [1] 4/16 representing [1] 4/8 required [1] 6/15 resolution [1] 14/12 review [1] 7/12 right [22] Riley [1] 5/8 role [1] 9/11 role -- [1] 9/11 room [1] 13/13 rooms [1] 13/14 RPR [1] 1/21 | sorry [1] 11/11 sought [1] 6/13 South [1] 2/5 Sower [1] 3/3 special [3] 2/2 6/16 6/17 specific [1] 13/20 specified [1] 14/2 SS [1] 17/1 staff [10] 9/18 13/5 13/18 13/19 14/1 14/4 14/20 15/7 15/16 15/20 staff -- [1] 13/18 stainless [19] standpoint [2] 8/16 12/13 state [3] 3/10 17/1 17/4 stated [1] 17/5 statement [5] 1/15 3/1 7/25 16/1 17/5 stay [1] 13/23 steel [2] 4/8 6/8 stenographic [2] 17/7 17/9 Street [2] 1/22 2/5 subject [1] 12/21 subsequent [3] 8/5 8/20 8/25 subsequently [3] 5/24 7/15 14/22 Suite [1] 1/22 supervision [1] 17/8 suppose [1] 6/18 sure [5] 5/9 7/22 8/17 10/13 15/4 sworn [4] 1/15 3/1 17/5 17/6 |
| P p.m [1] 14/2 pages [1] 17/8 part [1] 12/8 parte [5] 14/24 15/2 15/5 15/8 15/12 participate [3] 4/23 13/5 15/20 participated [1] 11/16 participating [1] 14/9 participation [1] 9/12 particular [3] 4/6 5/4 6/12 parties [6] 12/12 12/17 12/18 13/9 13/16 17/10 parties -- [1] 12/17 partner [1] 9/16 people [1] 5/10 perform [1] 4/20 perhaps [1] 9/5 period [2] 6/3 14/17 person [1] 5/13 persons [3] 15/14 15/14 15/17 persons -- [1] 15/14 petition [1] 8/25 petitioning [1] 8/21 place [2] 12/2 17/5 pleadings [4] 8/17 10/3 10/5 10/7 pleadings -- [1] 10/3 please [1] 3/11 position [1] 13/21 postponed [1] 13/11 practice [2] 4/6 4/7 practitioner [1] 3/21 prehearing [3] 10/16 10/20 10/22 present [2] 15/15 15/17 president [1] 5/9 primarily [2] 4/8 7/20 prior [3] 8/7 11/5 17/6 procedures [1] 7/12 proceeding [1] 14/25 proceedings [1] 14/11 proceedings -- [1] 14/11 production [1] 6/8 provision [1] 6/14 PSC [6] 7/3 7/4 7/11 7/16 11/4 13/5 PUBLIC [8] 1/1 2/2 3/3 7/21 9/18 17/4 17/12 17/18 | S said [3] 14/1 17/7 17/8 same [1] 14/16 say [3] 9/24 12/10 14/21 scheduled [2] 7/10 10/23 second [2] 6/4 8/7 see [1] 13/19 September [1] 8/4 service [8] 1/1 2/2 3/3 5/23 6/9 6/10 7/21 9/19 set [1] 17/6 settlement [4] 12/14 12/20 12/23 13/10 shop [1] 6/12 Simpson [1] 2/4 Since [2] 4/4 4/18 sir [19] small [1] 13/12 Smitty [2] 7/23 9/15 so [5] 6/4 10/4 14/5 15/15 17/9 So -- [1] 6/4 sole [1] 3/21 some [2] 10/2 10/24 something [1] 14/2 sometime [2] 5/19 6/4 somewhere [1] 13/14 | T take [8] 5/3 5/14 7/3 8/1 9/24 11/16 11/18 14/5 taken [6] 3/2 7/25 10/24 17/5 17/7 17/9 talking [1] 14/11 tariff [14] 5/19 5/21 5/22 5/24 5/25 6/9 6/10 6/14 8/6 8/7 8/12 8/20 12/19 13/7 tariff -- [1] 8/7 Taylor [4] 7/24 8/1 9/15 11/10 technically [1] 9/5 telephone [1] 9/25 telephonically [1] 3/2 tentatively [1] 12/18 TERMS [2] 1/6 1/10 testimony [4] 8/8 10/24 17/6 17/7 than [5] 6/15 10/6 10/7 11/14 14/19 Thank [1] 9/7 that [44] that -- [2] 6/19 10/6 that Mr. Taylor [1] 11/10 that's [4] 9/9 9/25 10/2 12/5 the -- [2] 11/12 15/18 their [1] 5/23 themselves [1] 14/14 then [3] 4/23 6/13 10/19 there [22] thereafter [1] 17/7 these [1] 14/10 they [3] 5/1 9/5 14/1 they've [1] 5/24 think [3] 9/5 10/15 13/22 this [3] 13/4 14/24 17/13 those [5] 6/25 10/21 10/24 14/3 15/20 thought [1] 10/16 time [13] 5/15 5/15 6/3 8/25 9/19 9/20 13/10 14/2 14/10 14/11 14/16 15/24 17/5 times [1] 10/21 Tom [1] 14/18 tonight [1] 13/23 Tower [1] 2/5 transcript [1] 17/8 troubled [1] 15/3 |
| Q quarter [1] 6/4 question [1] 6/23 questions [1] 13/22 | | |

| | | |
|--|------------------------|--|
| T | yourself [2] 12/2 15/6 | |
| true [1] 17/8 trust [2] 3/24 8/21 turn [1] 12/14 two [3] 6/1 7/8 9/2 type [2] 4/19 14/3 typewritten [2] 17/8 17/8 | | |
| U | | |
| under [5] 6/2 6/9 6/10 17/7 17/13 understand [1] 5/10 understanding [2] 6/1 8/24 unhappy [1] 6/3 until [2] 9/20 14/12 upon [2] 7/16 7/20 upon -- [1] 7/20 us [2] 3/25 13/23 use [1] 13/12 used [1] 7/22 UTILITIES [1] 1/11 utility [1] 13/13 | | |
| V | | |
| VanAntwerp [1] 3/22 vice [1] 5/9 virtue [1] 6/14 | | |
| W | | |
| wait [1] 12/13 was [33] was -- [1] 5/22 we [6] 7/6 7/11 7/22 12/11 12/13 12/20 we -- [2] 7/6 12/11 Wednesday [1] 3/4 Well [4] 5/8 9/13 12/10 15/23 were [23] were -- [1] 11/4 what [7] 3/17 4/19 7/2 9/11 9/11 12/4 15/4 when [4] 6/11 8/2 9/24 12/10 where [4] 12/17 13/15 15/14 15/16 whether [5] 7/8 7/9 12/3 13/1 13/24 whether -- [1] 13/1 which [4] 5/25 6/1 12/19 15/8 which -- [1] 5/25 who [2] 9/16 15/14 whole [2] 11/18 13/6 whom [1] 5/7 will [3] 12/14 13/21 15/18 WILLIAM [3] 1/17 3/1 3/12 Winchester [1] 3/15 with -- [3] 9/14 11/4 12/15 witness [1] 17/6 word [1] 15/3 work [5] 4/19 4/20 5/4 5/7 5/14 worked [1] 5/10 would [9] 6/15 7/8 7/9 9/8 10/5 13/19 14/3 14/19 14/20 would -- [1] 14/19 | | |
| Y | | |
| year [1] 5/20 years [1] 5/22 yes [13] 5/5 6/20 7/1 7/5 7/17 7/25 8/9 8/23 9/3 11/9 11/15 11/20 15/5 you [65] you -- [2] 12/11 14/13 you'll [1] 13/23 you're [1] 6/18 your [9] 3/10 3/13 3/13 3/17 8/7 9/11 10/20 11/1 15/24 | | |